83-899

No.

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ALEXANDER L. STEVAS,
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

In re EDWARD RONWIN,

Petitioner.

PETITION FOR A WRIT OF MANDAMUS TO THE SUPREME COURT OF ARIZONA

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MATTER PRESENTED TO JUSTIFY WRIT

The Supreme Court of Arizona refuses to obey the Due Process Clause of the Fifth and Fourteenth Amendments; this Court's decisions; and its own rules and decisions which require that bar applicants be accorded an opportunity for hearing with due process safeguards before final determination of their applications for admission to practice law.

OTHER PARTIES BELOW

There are no other parties below

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OPINION BELOW

The Order of the Supreme Court of Arizona which sparks this Petition was entered on September 14, 1983, in In the Matter of the Application for Admission to the State Bar of Arizona of Edward Ronwin, No. SB 52-10, and is reproduced in the Appendix. No opinion accompanied said Order.

JURISDICTION

Jurisdiction to consider this matter is lodged in this Court by the terms of 28 U.

S.C. § 1257 and 1651, and Rules 26 and 27 of this Court. See also District of Columbia Court of Appeals v. Feldman, ____U.S. _____, 103 S.Ct. 1303, 1314-1316 (1983). This Petition is filed within 90 days after September 14, 1983.

CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution,

Fifth Amendment:

No person shall * * * be deprived of life, liberty, or property, without due process of law * * *

Fourteenth Amendment: Section 1.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On June 6, 1983, Petitioner ("Ronwin") filed his tenth application for admission to the State Bar of Arizona directly with the Arizona Supreme Court which was assigned No. SB 52-10. Ronwin had passed the July, 1982 Arizona bar examination. On July 25, 1983, Ronwin filed a document entitled, "Request," which asked the Arizona court for a written statement of all charges and/or reasons that said court had, or believed itself to have, for refusing to admit Ronwin to the State Bar of Arizona; and for an evidentiary hearing on any such charges or reasons, and that at any such hearing or prior thereto, Ronwin have available discovery and subpoena process, and the other safeguards of due process such as, inter alia, the right to call witnesses and submit evidence, to cross-examine adverse witnesses and evidence and to have an impartial decisionmaker. On September 14, 1983,

said court entered the Order (see App.) denying without comment said application and, thereby, said "Request."

REASONS FOR GRANTING THE WRIT

The Supreme Court of Arizona refuses to obey the Due Process Clause of the Fifth and Fourteenth Amendments; this Court's decisions; and its own rules and decisions which require that bar applicants be accorded an opportunity for hearing with due process safeguards before final determination of their applications for admission to practice law.

1. Party Against Whom Relief is Sought

Relief is sought against the Supreme Court of Arizona.

2. The Relief Sought Is Not Available In Any Other Court

In Feldman, 103 S.Ct. at 1314-1316, this Court declared that a bar applicant can take his personal claim arising from a judicial action by a State's highest court only to

this Court, 28 U.S.C. § 1257, 103 S.Ct. at 1314-1316. Ronwin has previously sought relief from this Court. The last such occasion, which was entitled Ronwin v. Supreme Court of Arizona, this Court's No. 83-465, concerned Ronwin's 8th and 9th (Consolidated) applications to the Arizona court wherein said court, as it had done with five earlier applications, denied the 8th/9th application without prior notice of specific charges, without a hearing and without due process.[1]

This Court denied certiorari with the result that Ronwin has been denied his Fifth

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[1] As respects that 8th/9th application, the Arizona court decided the matter by "judicial notice" of untested and untried allegations attributed to Ronwin while declaring that the truth of said allegations was of no importance to said court's determination which was without an evidentiary hearing and due process. Said court persisted in labelling Ronwin as not mentally able to practice law while admitting that the medical evidence was to the contrary.

and Fourteenth Amendment rights to due process by said court with uninterrupted regularity since 1976, and without any viable remedy. Now as to Ronwin's tenth application, said court obviously persists in unlawfully refusing to recognize and honor Ronwin's Fifth and Fourteenth Amendment rights.

Ronwin does not seek a full review of the Arizona court's action in denying Ronwin's tenth application, but merely asks for an Order to said Court to obey constitutional requirements by offering Ronwin an opportunity for a full evidentiary hearing accompanied with all due process safeguards before said court decides any application for admission made by Ronwin.[2]

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[2] Pursuant to Feldman, Ronwin brought a general challenge to the administration of the Arizona court's rules by which said court denies applications without any hearing or due process based on the Arizona court's admitted denial of a motion by Ronwin in said 8th/9th application proceeding for a hearing. The U.S. District Court for the District

3. The Justification For Issuance of the Writ of Mandamus

17A Ariz. Rev. Stats., Rule 28(c)XII is the only rule of the Arizona court which concerns hearing procedures in cases of contested applications for bar admission. Subsection C is vague as to whether at least one evidentiary hearing is required. Subsection D permits discovery and subpoena process for participants in any hearing and Subsection F clearly makes the hearing requirement discretionary with the Arizona court. Said written rules are in conflict with this Court's holdings in Willner v. Committee on Character and Fitness, 373 U. S. 96, 103-105, 83 S.Ct. 1175, 1180-1181

2-Cont'd.
of Arizona has recently entered an Order granting summary judgment to the defendants (members of said court) and enjoining Ronwin from bringing challenges to the denial of due process in the determination of applications by the Arizona court and awarding attorney's fees against Ronwin even though Ronwin is the victim,since 1976, of a continuous and absolute denial of due process, which practice faces other applicants at the whim of the Arizona court. Obviously, this is the last Court where Ronwin can get an order requiring that his rights be respected.

(1963); Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S. 232, 238, 77 S.Ct. 752, 756, 1 L.Ed.2d 796 (1957), and Greene v. McElroy, 360 U.S. 474, 492, 79 S.Ct. 1400, 1411 (1959).

The Arizona court itself recognized the imperatives of the Fourteenth Amendment in Application of Levine, 97 Ariz. 88, 397 P. 2d 205, 207 (1964):

> We have held on various occasions that one may not be excluded by state action from a business, profession or occupation in a manner or for reasons which contravene the due process clause of the Fourteenth Amendment of the Constitution of the United States, and that due process means that there must be given notice of time and place of hearing, a reasonable definite statement of the charge or charges, the right to produce witnesses and to examine adverse witnesses and to have a full consideration and determination according to evidence before the body with whom the hearing is held (citations omitted). We believe that there is inherent in our democratic system the right to compete freely on an equal basis for the material goods of existence and that the right is protected by the due process and equal protection clauses of the Fourteenth Amendment. See Schware v. Board of Bar Examiners, 353 U.S. 232, 77 S.Ct. 752, 1 L.Ed.2d 796.

One may take the quoted statement as said court's interpretation of its written rules. As recounted in the Statement of the Case, Ronwin requested just what the Arizona court requires in the above quotation from Levine, but the result has been for Ronwin's six prior applications and for the application on which this Petition is based, an absolute denial of due process with all doors to remedy shut, except in this Court.

CONCLUSION

Unless this Court issues a Writ of Mandamus to the Supreme Court of Arizona ordering that no application for admission to the State Bar of Arizona by Ronwin may be denied without a full evidentiary hearing accompanied by all due process safeguards, Ronwin's rights to such due process under the Fifth and Fourteenth Amendments, and under Willner, Schware and Greene, supra, will continue to be a hollow promise.

Respectfully submitted

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DATED: November 30, 1983

(APPENDIX FOLLOWS)

APPENDIX

SUPREME COURT
STATE OF ARIZONA

IN THE MATTER OF THE APPLICATION FOR ADMISSION TO THE STATE BAR OF ARIZONA OF EDWARD RONWIN	September 14, 1983 Supreme Court No. SB 52-10

The following action was taken by the Supreme Court of the State of Arizona on September 13, 1983 in regard to the above-entitled cause:

"ORDERED: The Application is hereby denied.

Vice Chief Justice Frank X. Gordon, Jr. did not participate in the determination of this matter."

S. ALAN COOK, Clerk

By Kathleen E. Kempley
Deputy Clerk

TO:
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